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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/809,902   | 03/26/2004  | Makoto Miyamoto      | YMOR:197A           | 7694             |
| 27890  | 7590        | 01/18/2006           | EXAMINER            |                  |
| STEPTOE & JOHNSON LLP<br>1330 CONNECTICUT AVENUE, N.W.<br>WASHINGTON, DC 20036 |             |                      | WATKO, JULIE ANNE   |                  |
|  |             | ART UNIT             | PAPER NUMBER        |                  |
|  |             | 2653                 |                     |                  |

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                              |                     |  |
|------------------------------|------------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>       | <b>Applicant(s)</b> |  |
|                              | 10/809,902                   | MIYAMOTO ET AL.     |  |
|                              | Examiner<br>Julie Anne Watko | Art Unit<br>2653    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) Claim(s) 2,3 and 14-17 is/are allowed.
- 6) Claim(s) 4-6 and 18 is/are rejected.
- 7) Claim(s) 19-21 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. 09/815,276.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09815276, filed on 03/23/2001.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites the limitation “a line connecting the center of rotation and the mass center of gravity of said actuator makes an obtuse angle with a line connecting the center of rotation and the mass center of gravity of said inertial arm.” Claim 18 depends from claim 2; which recites “said actuator and said inertial arm have balanced mass with respect to respective centers of rotation” in lines 12-13. Because the actuator and the inertial arm are mass balanced, the center of gravity of the actuator is located at the center of rotation of the actuator, and the center of gravity of the inertial arm is located at the center of rotation of the inertial arm. Each claimed “line” is indefinite insofar as one point fails to uniquely define a line.

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US Pat. No. 4692829) in view of Reinhart (US Pat. No. 5734527).

See statement of rejection mailed July 29, 2005, and arguments below.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US Pat. No. 4692829) in view of Reinhart (US Pat. No. 5734527) and Mastache (US Pat. No. 5528437).

See statement of rejection mailed July 29, 2005, and arguments below.

***Allowable Subject Matter***

7. Claims 2-3 and 14-17 are allowed.
8. Claims 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

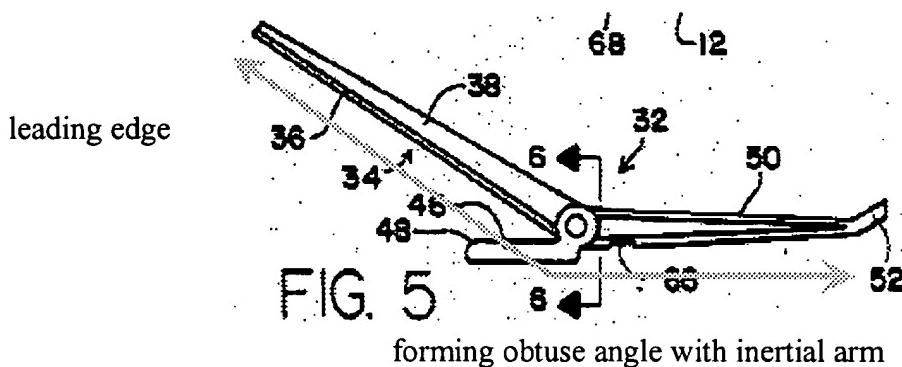
9. Applicant's arguments filed December 29, 2005, have been fully considered but they are not persuasive.

On page 11, 1<sup>st</sup> paragraph, Applicant argues that "Campbell, in contrast to the presently claimed invention, discloses that the leading edge of the aerodynamic latch member 32 is straight, as illustrated in Campbell's Fig. 1. Thus, Campbell does not teach or suggest a 'wind receiver that receives said force of air flow has a leading edge that forms an obtuse angle with said inertial arm.'" The Examiner has considered this argument thoroughly and agrees that the leading edge 36 of the wind receiver 34 is straight; however, said straight edge 36 forms an

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obtuse angle with the latching portion 50 of inertial arm 32 (see Fig. 5, which shows an angle between 36 and 50 which is quite clearly obtuse).

**Campbell et al Fig. 5, annotated**



Furthermore, a change in shape would not give rise to patentability, absent evidence of unexpected results due to the claimed shape. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

#### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

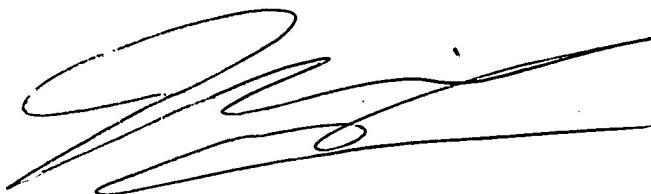
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Anne Watko whose telephone number is (571) 272-7597. The examiner can normally be reached on Monday-Thursday until 4:45PM, and Friday until 6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Julie Anne Watko  
Primary Examiner  
Art Unit 2653

January 13, 2006  
JAW

A handwritten signature in black ink, appearing to read "Julie Anne Watko". The signature is fluid and cursive, with a long horizontal stroke extending to the right.